

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DERICK TYLER,

Petitioner,

V.

DAVID NOLAN,

Respondent.

Civil Action No. 04-12680-NMG

**RESPONDENT DAVID NOLAN'S MOTION FOR ENLARGEMENT OF TIME TO FILE
AN ANSWER OR RESPONSIVE PLEADING TO PETITION FOR
WRIT OF HABEAS CORPUS**

Respondent David Nolan, through counsel, respectfully moves this Court to enlarge the time in which to file an answer or other responsive pleading to the above-captioned petition for writ of habeas corpus until and including December 15, 2005. The answer is currently due on November 17, 2005. As grounds therefore, the respondent's attorney states as follows:

1. Rule 5 of the Rules governing Section 2254 Cases in the United States District Courts requires the respondent to answer each allegation of the complaint and state whether the petitioner has exhausted his available state court remedies. The Rule also requires that the respondent indicate what transcripts or parts of state court proceedings are available.
2. Additionally, the Court's Order dated October 26, 2005 "requests the Respondent, as part of the return, to file such documents which reflect on the issue as to whether petitioner(s) exhausted available state remedies with respect to the matters raised by the Petition."
3. To this end, the respondent's attorney recently requested the record of the

petitioner's state court proceedings from the Suffolk County District Attorney's office. The respondent's attorney is currently awaiting receipt of those files of the state court proceeding and will require the additional time to review the state court briefs and prepare an appropriate response to the petition.

4. No previous application for an enlargement of time to answer or otherwise respond to the petition has been made to the Court.

Wherefore, respondent David Nolan respectfully requests that the Court enlarge the time for filing an answer or other responsive pleading in the above-captioned petition to December 15, 2005.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

/s/ Jonathan Ofilos
Jonathan Ofilos
Assistant Attorney General
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Dated: November 10, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the petitioner, Derick Tyler, on November 10, 2005, by depositing the copy in the office depository for collection and delivery by first-class mail, postage pre-paid, to him as follows: Derrick Tyler, *pro se*, MCI Cedar Junction, P.O. Box 100, South Walpole, Massachusetts 02071.

/s/ Jonathan Ofilos
Jonathan Ofilos
Assistant Attorney General